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Message Text

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DRAFTED BY: S/S-O:AOTTO:MDJ
APPROVED BY: S/S-O:AOTTO
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FOLLOWING TEL SENT ACTION STATE FROM USUN AUG 07:

QUOTE S E C R E T USUN 3143

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FROM US DEL LOS

FOR D/LOS, S/S, S/P, OES, EB, AND L ONLY FROM AMB. LEARSON

E.O. 11652: GDS
TAGS: PLOS, OVIP
SUBJECT: PARTICIPATION BY THE SECRETARY IN LOS NY SESSION

REF: STATE 194944

1. OVERVIEW. WE AND OTHERS DECIDED TO DRAW THE BATTLE LINES EARLY IN ALL COMMITTEES. IN ALL BUT THE FIRST COMMITTEE, THIS HAS FOCUSED NEGOTIATIONS ON THE REAL PROBLEMS AS WE PERCEIVE THEM, AND DIRECTED ATTENTION AWAY FROM TEXTS WE DO NOT WANT SUBSTANTIALLY CHANGED. THE THREE COMMITTEES AND THE
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DISPUTE SETTLEMENT NEGOTIATION CONTINUE TO RUN LARGELY

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INDEPENDENTLY OF EACH OTHER. WE COULD EXPECT THIS TO CONTINUE
AT LEAST UNTIL AMERASINGHE RETURNS ABOUT AUGUST 23.

2. OUR OBJECTIVE IS TO COMPLETE THE SUBSTANCE OF COMMITTEE
II, III AND HOPEFULLY, DISPUTE SETTLEMENT NEGOTIATIONS ON
SATISFACTORY TERMS AT THIS SESSION, PARTICULARLY BECAUSE
THE COMMITTEE II AND III TEXTS WILL INFLUENCE THE NATURE
OF UNILATERAL COASTAL STATE ACTIONS EVEN IF A TREATY IS
DELAYED. WE DO NOT BELIEVE THIS CAN BE DONE IN COMMITTEE I,
BUT IF THINGS GO REASONABLY WELL, WE CAN COME CLOSER.

3. TO DO THIS, WE MUST FIRST GIVE THE CLEAR SIGNAL THAT
CHANGES IN TEXTS TO RESOLVE OUR MAJOR PROBLEMS MUST BE MADE.
THUS, WE HAVE TAKEN HARDLINE POSITIONS, AND WILL CONTINUE
TO DO SO DURING THE SECOND WEEK. WE VIEW YOUR FIRST VISIT
ON AUGUST 13 AS (1) CONFIRMING U.S. DETERMINATION,
(2) WARNING THE OTHERS OF THE CONSEQUENCES OF A CONFRONTATION
OVER THE DEEP SEABEDS, (3) GIVING YOU A FIRST-HAND IMPRESSION
OF THE OPPOSING VIEWS, (4) LAYING THE FOUNDATION FOR
SUBSTANTIVE INTERVENTION BY YOU WITH SPECIFIC PROPOSALS
DURING YOUR SUBSEQUENT VISIT WHERE THIS COULD BE HELPFUL.
THUS, WE PLAN TO EMPHASIZE SUBSTANTIVE PROBLEMS RATHER THAN
TRADITIONAL POLITICAL TIES IN SELECTING STATE FOR YOUR
BILATERALS ON AUGUST 13. FOR THE TIME BEING, ON CERTAIN
ISSUES - E.G., HIGH SEAS STATUS OF THE ECONOMIC ZONE --
WE ARE TELLING THE OPPOSITION TO MAKE A PROPOSAL, BECAUSE
IT IS CLEAR THAT MARITIME POWER INITIATIVE WILL NOT HAVE
AS GOOD A CHANCE OF SUCCEEDING; WE ARE WORKING BEHIND THE
SCENES WITH SYMPATHETIC MEMBERS OF OPPOSING GROUPS (E.G.,
AUSTRALIA IN THE COASTAL STATE GROUP).

4. COMMITTEE I GOT CAUGHT IN A PROCEDURAL WRANGLE OVER WORKING
GROUPS AND THEIR CHAIRMEN THAT IS, IN FACT, A SUBSTANTIVE
FIGHT OVER THE REVISED SNT. THE RADICAL LDC'S WOULD
LIKE TO DISCARD THE WHOLE TEXT (AND IN EFFECT, THE FIRST
COMMITTEE CHAIRMAN ENGO WHO PUT IT OUT), WHILE THE INDUSTRIAL-
IZED STATES WANT TO NEGOTIATE ONLY SELECTED PARTS OF IT.
BY THE TIME YOU ARRIVE, THE REAL SUBSTANTIVE ISSUES OUTLINED
FOR YOU IN EARLIER MEMORANDA SHOULD BEGIN TO EMERGE.

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5. THE LDC'S ARE BEGINNING TO GET NERVOUS ABOUT WHAT THEY
PERCEIVE AS A TOUGHER U.S. ATTITUDE; WE ARE DELIBERATELY
AVOIDING GIVING THE IMPRESSION WE CAN BE EXPECTED TO SACRIFICE
SUBSTANTIVE INTERESTS IN ORDER TO WRAP UP A TREATY NOW. THIS
MUST BE CAREFULLY MODULATED, SINCE WE DO NOT WISH TO ENCOURAGE
A GENERAL LDC REBELLION. THE RISK OF THIS IN COMMITTEE I
IS CONSIDERABLE.

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6. BY THE TIME OF YOUR SECOND VISIT, IT WILL BE ABUNDANTLY CLEAR TO MOST DELEGATIONS THAT SOMETHING MUST BE DONE TO SAVE THE CONFERENCE. WE WOULD ANTICIPATE YOUR HAVING IN-DEPTH MEETINGS ON SELECTED ISSUES, WHERE YOU WOULD PRESENT SPECIFIC IDEAS. IN ADDITION TO BILATERALS, SOME SUBJECT-ORIENTED MULTILATERAL MEETINGS MIGHT BE USEFUL. WE DO NOT BELIEVE PUBLIC PRESENATION OF NEW PROPOSALS WOULD WORK BECAUSE OF THE GENERAL FEELING AMONG LDC'S THAT THE U.S. DICTATED THE OUTCOME OF THE LAST SESSION IN COMMITTEE I.

7. FINALLY, DURING BOTH VISITS, SOME BILATERALS WILL ALSO FOCUS ON SPECIFIC PROBLEMS OF HIGH POLITICAL CONTENT THAT COULD GET OUT OF HAND. THUS, FOR EXAMPLE, WE WOULD HOPE YOUR MEETING WITH THE EGYPTIANS COULD HELP PERSUADE THEM NOT TO STAGE A MAJOR FIGHT OVER THE STRAIT OF TIRAN.

COMMITTEE I

A. CURRENT NEGOTIATING STATUS OF THE MAIN OUTSTANDING ISSUES - THE LDCS HAVE MADE A MAJOR EFFORT DURING THE FIRST WEEK OF THE CONFERENCE TO ENSURE THAT THERE IS A COMMON UNDER-STANDING THAT NO ARTICLE IN THE SNT IS YET AGREED UPON. THIS IS THE EXTREMIST REACTION TO THE "SELL OUTS" IN THE G-77, I.E., THE LDC MEMBERS OF THE SECRET BRAZIL GROUP WHO NEGOTIATED THE RSNT WITH US.

WE CANNOT BE SURE THAT ONCE THE LDC EXTREMISTS ARE FINISHED LETTING OFF STEAM, WHETHER THEY WILL SEEK TO RE-OPEN ONLY A FEW FUNDAMENTAL ISSUES IN THE RSNT. THEY HAVE RELUCTANTLY ACCEPTED THE RSNT AS A BASIS OF NEGOTIATION AND HAVE GIVEN UP AN EARLIER EFFORT TO USE THE 1975 GENEVA TEXT INSTEAD.

IT APPEARS AT THIS STAGE THAT THE REAL CONCERN OF THE GROUP

OF 77 AND THE ISSUES THAT THEY WOULD WANT TO NEGOTIATE FULLY ARE LIMITED TO STRENGTHENING THE ENTERPRISE SO THAT THERE IS A "GENUINE PARALLEL SYSTEM OF EXPLOITATION" AND THE VOTING PROCEDURES IN THE ASSEMBLY AS WELL AS ITS POWERS AND FUNCTIONS VIS-A-VIS THE COUNCIL.

THE PRINCIPAL ISSUES WE WANT TO NEGOTIATE AT THIS SESSION ARE VOTING IN THE COUNCIL AND IMPROVEMENT TO THE ACCESS SYSTEM.

THE SOVIET UNION AND CERTAIN INDUSTRIALIZED COUNTRIES CONTINUE TO PRESS FOR INCLUSION OF A QUOTA, OR ANTI-MONOPOLY, PROVISION IN THE TREATY -- ALTHOUGH THEY ARE NOT PUSHING THIS ISSUE AT THIS TIME.

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FINALLY, WE HAVE CLEAR INDICATIONS THAT THE CANADIAN DELEGATION HAS INSTRUCTIONS TO SEEK AMENDMENTS REGARDING THE PRODUCTION LIMITATION IN ARTICLE 9.

THERE HAVE BEEN NO SUBSTANTIVE NEGOTIATIONS DURING THE FIRST WEEK OF THE SESSION AND CONSEQUENTLY NO CHANGE IN THE NEGOTIATING SITUATION ON ANY OF THESE ISSUES AS COMPARED WITH THE CLOSING DAYS AND THE MARCH SESSION. COMMITTEE I HAS CONCENTRATED EXCLUSIVELY ON PROCEDURAL ISSUES, WHICH IN FACT WERE FUNDAMENTAL SUBSTANTIVE ISSUES. THE DEBATE HAS BEEN THE SELECTION OF TWO CO-CHAIRMEN. JAGOTA OF INDIA HAS BEEN SELECTED. U.S. WAS ISOLATED AND LAST. DEVELOPED WORLD WILL PROBABLY BE REPRESENTED BY THE E.C. REPRESENTATIVE.

WHEN THE SUBSTANTIVE NEGOTIATIONS BEGIN, THE LDCS WILL PROBABLY SEEK A POLITICAL COMPROMISE ON THE ACCESS SYSTEM SO AS TO ENSURE THE VIABILITY OF THE ENTERPRISE. IF THEY ARE UNSUCCESSFUL, THEY -- OR AT LEAST THE RADICAL LEADER-SHIP -- WILL THEN ATTEMPT TO DESTROY THE PARALLEL SYSTEM AND RETURN TO PROVISIONS OF THE 1975 GENEVA TEXT -- EX-CLUSIVE OPERATION BY THE ENTERPRISE. THE LDCS WILL ALSO REOPEN THE ARTICLE ON THE ASSEMBLY TO MAKE IT ABSOLUTELY CLEAR THAT THE ASSEMBLY IS THE PARAMOUNT POLICY-MAKING BODY IN THE AUTHORITY AND THAT THE COUNCIL IS SUBORDINATE AND IS STRIPPED OF POLICY-MAKING POWERS.

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THE U.S. WILL, AT THE APPROPRIATE TIME, PROPOSE A NEW ARTICLE ON THE COMPOSITION AND VOTING IN THE COUNCIL AND IMPROVEMENTS TO THE ACCESS SYSTEM.

B. BASIC STRATEGY/TACTICS OF THE U.S. DELEGATION TO ACHIEVE SUCCESSFUL PROGRESS - THE U.S. STRATEGY MUST BE DEVELOPED AGAINST THE BACKGROUND OF A SIGNIFICANT CHANGE IN THE NOGITIATING SITUATION AT THIS SESSION OF THE CONFERENCE. AT THE MARCH-MAY SESSION, THE COMMITTEE I NEGOTIATIONS WERE EFFECTIVELY DOMINATED BY THE SECRET BRAZIL GROUP (BRAZIL, PERU, MEXICO, CHILE, JAMAICA, SINGAPORE, SRI LANKA, KENYA, NORWAY, FRANCE, UNITED STATES), WHICH, ACTING COLLECTIVELY, EXERVISED A CONSTRUC-TIVE AND MODERATING INFLUENCE ON THE PROGRESS OF THE NEGOTIATION AND THE PREPARATION OF DRAFT ARTICLES. THIS PROCEDURE, ALTHOUGH EXTREMELY SUCCESSFUL, PROVOKED A STRONG, NEGATIVE REACTION AMONG CERTAIN COUNTRIES AT THE END OF THE LAST SESSION. THIS HAS LED TO A MAJOR EFFORT BY THE MORE EXTREMIST COUNTRIES (ALGERIA, THE ARAB STATES, INDIA AND MEXICO) TO CHANGE THE PROCEDURES IN COMMITTEE I AND WITH THE OBJECT OF MOVING BACK TOWARD THE 1975 GENEVA SNT ON IMPORTNT ISSUES. THESE COUNTRIES HAVE BEEN

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SUCCESSFUL IN INTRODUCING EXTREMIST RHETORIC INTO THE DEBATE AND HAVE INDICATED THEY ARE PREPARED TO PRESS FOR POSITIONS WHICH WOULD BE UNACCEPTABLE TO THE U.S. IN SUM, THEY ARE SEEKING TO RADICALIZE THE NEGOTIATIONS.

FOR THE TIME BEING, THOSE COUNTRUES WHICH ACTED AS MODERATES AND CONTRIBUTED TO PUTTING TOGETHER THE ELEMENTS OF A BROADLY ACCEPTABLE COMPROMISE PACKAGE IN MARCH HAVE BEEN DISCREDITED TO SOME DEGREE WITH THE GROUP OF 77 AND HEVE THEREFORE BEEN NEUTRALIZED AS EFFECTIVE PLAYERS. UNTIL SUCH TIME AS THESE COUNTRIES CAN ONCE AGAIN DOMINATE THE NEGOTIATIONS, WE CANNOT HOPE TO HAVE THE GROUP OF 77 ACCEPT U.S. POSITIONS. THE RE-EMERGENCE OF THE MODERATES CANNOT BE IMPOSED, HOWEVER. IT MUST COME ABOUT THROUGH A NATURAL PROCESS.

WE EXPECT THAT IN THE FIRST PART OF THE SESSION, THERE WILL BE MAJOR DRIVE BY THE RADICALS IN THE NEGOTIATION TO UNDO THE WORK DONE IN MARCH ON CERTAIN KEY ISSUES. THIS WILL ENTAIL NUMEROUS PUBLIC AND PROBABLY VITRIOLIC DEBATES BY THE

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MORE EXTREMIST DELEGATIONS. WE BELIEVE THAT THERE IS NO EFFECTIVE WAY TO PREVENT THIS FROM HAPPENING. OUT OVERALL STRATEGY WILL BE TO COUNTER EXTREMIST STATEMENTS BY TAKING A VERY TOUGH POSITION OURSELVES ON ALL MAJOR ISSUES, AND SHOWING NO FLEXIBILITY ON QUESTIONS OF CONCERN TO THE GROUP OF 77. IT IS OUR EXPECTATION THAT THIS WILL RESULT IN A BLOW-UP WITHIN COMMITTEE I. HOWEVER, WE BELIEVE THAT THE SITUATION WILL CHANGE WHEN IT BECOMES EVIDENT TO THE VAST MAJORITY OF DELEGATIONS THAT THE U.S. WILL NOT BACK DOWN ON THE ISSUES OF VITAL IMPORATNCE OT IT AND THAT THE RADICALS WILL NOT SUCCEED IN GETTING THE U.S. TO AGREE TO UNACCEPTABLE COMPROMISES. AT THIS POINT, WE EXPECT THAT THE CONFERENCE WILL RECOGNIZE THAT THE TACTICS OF THE RADICALS ARE JEOPARDIZING THE NEGOTIATIONS AND THE POSSIBILITY OF TREATY. THE FOUNDATION WILL THIS BE LAID FOR THE MODERATES IN THE NEGOTIATIONS TO REASSUME THEIR LEADERSHIP ROLE IN THE NEGOTIATION.

ONE IMMEDIATE RESULT OF THE U.S. STRATEGY WILL BE THAT FOR POSSIBLY HALF THE SESSION, THERE WILL BE NO PROGRESS MADE IN SUBSTANTIVE ISSUES. THERE MAY ALSO BE PRESS ATTACKS CRITICIZING THE U.S. FOR TAKING UNREALISTIC AND UNRESPONSIVE POSITIONS.

C. THE SECRETARY'S PARTICIPATION - WE BELIEVE THAT THE PRINCIPAL OBJECTIVE OF THE SECRETARY'S PARTICIPATION ON AUGUST 13 AS REGARDS THE DEEP SEABEDS NEGOTIATIONS SHOULD BE TO RE-ENFORCE THE HARDLINES POSITION OUTLINED ABOVE. WE BELIEVE THAT THE SECRETARY SHOULD MAKE

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CLEAR TO KEY INFLUENTIAL DELEGATIONS THAT THE LAW OF
THE SEA NEGOTIATIONS TOUCH ON A NUMBER OF ISSUES OF VITAL
NATIONAL INTEREST TO THE UNITED STATES AND THAT WE CANNOT
AGREE TO A TREATY THAT DOES NOT MEET OUR BASIC CONCERNS.
THE SECRETARY CAN STRESS THAT THE U.S. HAS BEEN A LEADER
IN THE NEGOTIATIONS IN SEEKING COMPROMISES AND ATTEMPTING
TO ACCOMMODATE THE INTERESTS OF THE LARGE MAJORITY OF
NATIONS WITH OCEAN CONCERNS. THE U.S. HAS MADE A NUMBER
OF COMPROMISE PROPOSALS IN AN EFFORT TO REACH A BROADLY
ACCPETABLE AGGREMENT. SOME OF THESE HAVE ENTAILED IMPORT-
ANT CONCESSIONS ON OUR PART. HOWEVER, THERE IS A POINT
BEYOND WHICH THE US. IS NOT PREPARED TO GO.
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THE SECRETARY SHOULD ALSO MAKE CLEAR THAT IT WOULD
BE A MISTAKE FOR THOSE NATIONA WHICH HOPE TO SEE U.S. CON-
CESSION TO DELAY FINAL AGREEMENT ON AN LOS TREATY UNTIL
NEXT YEAR IN THE HOPE THAT A NEW ADMINISTRATION IN WASH-
INGTON WOULD BE MORE FLEXIBLE AND FORTHCOMING. THE U.S.
POSITION ON THE LAW OF THE SEA HAS ENJOYED BROAD, BIPARTISAN
SUPPORT FOR MANY YEARS. IT HAS NEVER BEEN A POLITICAL
ISSUE AND THERE IS NO REASON TO BELIEVE THAT IT WILL
BECOME ONE.

AT THE SAME TIME, THE SECRETARY SHOULD REMOVE ANY
IMPRESSION THAT THE U.S. IS WILLING TO MAEK CONCESSIONS
IN RETURN FOR A QUICK AGREEMENT. WE WOULD CLEARLY PREFER
TO RESOLVE ALL MAJOR ISSUES AT THIS SESSION OF THE
CONFERENCE. WE BELIEVE THAT, THE PASSAGE OF TIME,
A NEGOTIATED SETTLEMENT WILL BECOME MORE DIFFICULT AS
MORE AND MORE NATIONS TAKE UNILATERAL ACTION. HOWEVER, U.S.
IS PREPARED TO CONTINUE IN THISE NEGOTIATIONS AS LONG AS
THERE IS ANY REAL PROSPECT OF A NEGOTIATED SETTLEMENT
WHICH COULD HAVE THE SUPPORT OF A LARFE NUMBER OF STATES.
WE WOULD HOPE THAT THE LEADERSHIP OF THE CONFERENCE WOULD
TRY TO ARRIVE AT THE BASIC POLTICIAL COMPROMISES WHICH
ARE ESSENTIAL TO A SUCCESSFUL TREATY AT THIS SESSION. IF
THAT IS NOT POSSIBLE, THE NEGOTIATIONS WILL HAVE TO
CONTINUE NEXT YEAR.

D. RELATIONSHIP BETWEEN AUGUST 13 VISIT AND VISIT
OF AUGUST 24-26 - IF THE STRATEGY OUTLINED ABOVE IS
SUCCESSFUL AND THE HARDLINE POSITION TAKEN BY THE US.
SUCCEEDS, AFTER AN EARLY BLOWUP, IN STRENGTHENING THE
POSIPIONS, CAN BEGIN. AT THIS STAGE, THE SECRETARY MAY
WISH TO EXERCISE WHAT FLEXIBILITY WE MAY HAVE IN REGARD
TO CERTAIN ISSUES, IF IT APPEARS AT THAT TIME THAT IT
WOULD LEAD TO A SATIFIACTORY COMPROMISE.

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COMMITTEE II

A. STATUS OF THE NEGOTIATIONS

THE PROCEDURAL PHASE OF THIS SESSION HAS BEEN COM-
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PLETED, AND OUR OBJECTIVE IN SEEKING TO FOCUS THE COMMITTEE ON MAJOR OUTSTANDING ISSUES HAS BEEN ACHIEVED. COMMITTEE II, AT THE OUTSET, WILL DEAL WITH THE QUESTIONS OF: (1) THE LEGAL STATUS OF THE ECONOMIC ZONE AND THE RIGHTS AND DUTIES OF COASTAL AND OTHER STATES (INCLUDING LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES); (2) ACCESS OF LANDLOCKED STATES TO THE SEA AND RIGHTS OF TRANSIT; AND (3) THE CONTINENTAL SHELF, INCLUDING THE QUESTION OF REVENUE SHARING. THSES ISSUES WILL BE DEALTH WITH INDIVIDUALLY BELOW. EACH SET OF ISSUES HAS BEEN ASSIGNED TO A NEGOTIATING GROUP COMPOSED OF INTERESTED STATES AND SUBSTANTIVE DISCUSSIONS HAVE BEGUN. THE MECHANISM SELECTED HAS NOT YET PROVED PRODUCTIVE AND THE DEBATES HAVE BEEN OF A GENERALLY PHILOSOPHICAL NATURE. AS THE SITUATION SOLIDIFIES, OTHER MEANS OF DEALING WITH THESE ISSUES WILL HAVE TO EVOLVE. IT IS CLEAR THAT SEVERAL DELEGATIONS, INCLUDING CERTAIN LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES (L/L AND GDS), WISH TO LESSEN THE INFLUENCE OF CHAIRMAN AGUILAR (VENEZUELA) ON THE OUTCOME OF THE NGEOTIATIONS, SINCE THEY FEEL THAT HE EXHIBITED NATIONAL PREJUDICES IN HIS DRAFTING OF THE REVISED SINGLE NEGOTIATING TEXT (RSNT). AGUILAR, WHI IN OUR JUDGEMENT IS THE BEST AVAILABLE, THOUGH INCLINED AGAINST US ON SOME ISSUES, NOW CHAIRS ALL NEGOTIATING GROUPS AND IS KEEPING A FIRM GRASP ON THE PROCEEDINGS OF THE COMITTEE.

I. MAJOR OUTSTANDING ISSUES

A. HIGH SEAS STATUS OF THE ECONOMIC ZONE

IT HAS CONSISTENTLY BEEN THE POSITION OF THE U.S. THAT THE WATERS WITHIN THE ECONOMIC ZONE MUST RETAIN THEIR STATUS AS HIGH SEAS, AND DEFINED IN EXISTING INTERNATIONAL LAW, EXCEPT PERTAINING TO SPECIFIC RIGHTS ASSIGNED TO COASTAL STATES IN THIS TREATY. THIS WOULD GIVE TO THE COASTAL STATES EXCLUSIVE RIGHTS RESPECTING RESOURCES, INCLUDING FISHERIES. OUR POSITION IS STRONGLY OPPOSED BY A SUBSTANTIAL NUMBER OF STATES, PRIMARILY MEMBERS OF THE COASTAL STATES GROUP. PARTICULARLY EFFECTIVE IN THIS OPPOSITION ARE MEXICO, PERU, BRAZIL, AND INDIA. THE OPPOSITION IS OF
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THE VIEW THAT EXCEPT FOR NAVIGATION, COMMUNICATION AND OVERFLIGHT, ALL RIGHTS IN THE ZONE FALL TO THE COASTAL STATE. THE RSNT STATES THAT THE ECONOMIC ZONE IS NOT HIGH SEAS.

THE U.S. TACTICS AT THIS POINT INVOLVE ASSUMING FAIRLY TOUGH STANCE TO INDICATE THE IMPORTANCE OF THE ISSUE AND TO FORCE THE OPPOSITION TO RESPOND, THUS CREATING THE INITIATIVE FOR EVENTUAL SUBSTANTIVE NEGOTIATIONS BY A SMALL GROUP OF NATIONS.

THE TIME IS NOT YET RIPE FOR THESE FINAL TALKS. THE SECRETARY CAN, HOWEVER, THROUGH EMPHASIS ON THE IMPORTANCE OF THE ISSUES, ENCOURAGE AN ATMOSPHERE CONCLUSIVE TO MOVEMENT BY THE OTHER SIDE. ALTHOUGH WE HAVE NOT SPECIFICALLY INDICATED THIS AS SUCH, THE OBJECTIVE IS TO WORK TOWARD A FORMULA OF WORDS THAT PROTECT OUR NATURAL INTERESTS (PRIMARILY MILITARY) AND TAKES AWAY FROM THE OPPOSITION THE "SUI GENERIS" ARGUMENT. IF THIS CAN BE ACCOMPLISHED, THE WORDS "HIGH SEAS" LOSE MUCH OF THEIR RELEVANCE. ONE PART OF SUCH A FORMULATION COULD BE A PROPOSAL MADE DURING THE LAST SESSION OF THE CONFERENCE BY AUSTRALIA WHICH WOULD DEFINE THE ECONOMIC ZONE AS HIGH SEAS "PROVIDED THAT THE EXCLUSIVE ECONOMIC ZONE IS NOT HIGH SEAS WITH RESPECT TO THE EXERCISE OF THE COASTAL STATES' RIGHTS PROVIDED FOR IN THIS CONVENTION."

BY AUGUST 24, IT IS LIKELY THAT THE ISSUE WILL BE NARROWED, OTHER PARTICIPANTS WILL APPROPRIATELY BE IMPRESSED WITH THE NEED TO RESOLVE THIS ISSUE TO OUR SATISFACTION (AND THE SATISFACTION OF OTHER MARITIME POWERS), AND THE MAJOR PARTICIPANTS PROPERLY NARROWED AND REPRESENTATIVE TO MAKE THE NEGOTIATION OF THE FINAL SOLUTION POSSIBLE.

B. LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES

THIS GROUP (ORGANIZED) REPRESENTS A POTENTIAL BLOCKING THIRD IF THEY REMAIN SOLIDIFIED. THEY HAVE VIGOROUSLY PRESSED FOR THEIR INTERESTS. THERE ARE THREE BASIC CATEGORIES OF ISSUES IN WHICH THEY HAVE AN INTEREST, TO

BE ELABORATED IN VARIOUS PARTS OF THIS PAPER. THEY ARE: (1) THE RIGHT OF ACCESS TO THE SEA BY LANDLOCKED COUNTRIES; (2) SOME FORM OF PREFERENTIAL ACCESS FOR

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L/L AND GDS TO THE LIVING RESOURCES IN THE ECONOMIC ZONES OF NEIGHBORING STATES OR IN THE REGION; AND (3) REVENUE SHARING FROM THE MINERAL RESOURCES EXTRACTED FROM THE CONTINENTAL MARGIN BEYOND 200 MILES (SOME WOULD SEEK A SHARE OF REVENUE INSIDE AS WELL).

THESE ISSUES DO NOT DIRECTLY AFFECT US INTERESTS AS THEY ARE REFLECTED IN THE RSNT. HOWEVER, THEIR RESOLUTION IS IMPORTANT TO THE SUCCESSFUL COMPLETION OF THE TREATY.

THE US TACTIC HAS BEEN TO REMAIN NEUTRAL, EXPLORING SOLUTIONS SUGGESTED BY BOTH SIDES AND ENCOURAGING THEM TO SOLVE THE PROBLEMS THROUGH NEGOTIATION.

AT THIS TIME, THE SECRETARY SHOULD TAKE NOTE AND EXPRESS SYMPATHY FOR THE IMPORTANCE OF RESOLVING THE PROBLEM. PREMATURE TILT TOWARD THE L/L AND GDS COULD RESULT IN NEGOTIATING PROBLEMS WITH THE COASTAL STATES. THE OPPOSITE TILT MIGHT RESULT IN LOSS OF L/L AND GDS SUPPORT FOR OUR POSITION ON THE STATUS OF THE ECONOMIC ZONE, WHICH THEY NOW GENERALLY SUPPORT. A POTENTIAL DANGER IS THAT THE COASTAL STATES MAY OFFER THE L/L AND GDS GROUP CERTAIN RIGHTS IN THE ECONOMIC ZONE IN EXCHANGE FOR SUPPORT OF THE COASTAL STATE POSITION ON THE STATUS OF THE ZONE. ANY INDICATION OF THAT SHOULD BE MET BY A CORRESPONDING INDICATION OF THE IMPORTANCE OF RESOLVING THE STATUS OF THE ZONE FOR ACHIEVING A TREATY.

C. THE CONTINENTAL MARGIN

THE BASIC ISSUES UNDER DISCUSSION CONCERNING THE CONTINENTAL MARGIN INCLUDE THE DEFINITION OF THE OUTER LIMIT OF THE MARGIN AND THE QUESTION OF REVENUE SHARING FROM THE MARGIN BEYOND TWO HUNDRED MILES. THE BROAD MARGIN STATES WISH TO EXTEND THEIR MINERAL RIGHTS AS FAR SEAWARD AS POSSIBLE. THE L/L AND GDS, ALONG WITH A FEW OTHERS (INCLUDING THE USSR AND

JAPAN) WISH TO LIMIT THE JURISDICTION OF COASTAL STATES IN THIS REGARD. THE US HAS TAKEN A MORE OR LESS NEUTRAL POSITION SINCE WE HAVE LITTLE TO GAIN BY A BROAD MARGIN DEFINITION. WE HAVE STRESSED THE IMPORTANCE OF A PRECISE DEFINITION OF THE MARGIN (TO CORRECT THE INADEQUACIES OF THE 1958 GENEVA CONVENTION) WHICH PROVIDES FOR REASONABLE COASTAL STATE CONTROL OF MINERAL RESOURCES OF THE MARGIN, AND THE NECESSITY TO OFFSET THE RESULTING LOSS TO THE INTERNATIONAL COMMUNITY BY INSTITUTING A REASONABLE SYSTEM OF REVENUE

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SHARING IN THAT PORTION OF THE MARGIN BEYOND 200 MILES.

DURING THE LAST SESSION OF THE CONFERENCE WE SUPPORTED
IRISH/CANADIAN PROPOSAL THAT WOULD GIVE TO THE COASTAL
STATE THE OPTION WHETHER TO END THE MARGIN AT A FIXED
DISTANCE (60 MILES FROM THE FOOT OF THE SLOPE) OR AT A
POINT MEASURED BY THE DEPTH OF THE SEDIMENTS. ALONG
WITH THIS, WE PROPOSED A SYSTEM OF REVENUE SHARING
BEYOND 200 MILES WHICH CALLS FOR NO SHARING DURING THE
FIRST FIVE YEARS AND THEN AN INCREASING PER-
CENTAGE CULMINATING IN A VALUE OF 5 PERCENT OF THE VALUE OF
THE RESOURCES AT THE SITE AT THE END OF THE TENTH YEAR
AND THEREAFTER. BOTH PROPOSALS SEEMED TO ATTRACT ATTENTION.

US TACTICS AT THIS POINT CALL FOR NEUTRALITY ON THE
ISSUE, BUT WITH QUIET SUPPORT OF THE PACKAGE. WHILE WE
PREFER A "FIXED DISTANCE" SOLUTION, IT HAS PROVED
NON-NEGOTIABLE IN THE PAST. THE US CONTINUES TO INSIST
THAT ALL COASTAL STATES, WHETHER DEVELOPED OR DEVELOPING,
BE SUBJECT TO THE SAME REVENUE SHARING FORMULA.

THE SECRETARY SHOULD CONTINUE TO STRESS THAT OUR
PURPOSE IS TO ENSURE A PRECISE AND FAIR DEFINITION OF THE
MARGIN AND THAT WE SUPPORT REASONABLE, NON-DISCRIMINATORY
REVENUE SHARING.

IF THE MATTER IS UNRESOLVED AT THE END OF AUGUST, THE
SECRETARY'S INTERVENTION MAY PROVE DESIRABLE.

D. DEPENDENT TERRITORIES
WHILE THIS ISSUE IS NOT ONE UPON WHICH THERE WILL BE EARLY
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NEGOTIATIONS, IT REMAINS ONE OF IMPORTANCE TO THE US. THE
GENEVA TEXT PROVIDED THAT RESOURCE RIFHTS OF TERITORIES
UNDER FOREIGN DOMINATION ARE VESTED IN THE INHABITANTS OF
THOSE TERRITORIES. THE US STRONGLY OPPOSED THE TEXT AND IN-
TRODUCED AN AMENDMENT THE EFFECT OF WHICH WAS TO MAKE IT LEAGELY
HORATOTORY RATHER THAN LEGALLY BINDING. THE TEXT IN THE RSNT
WAS ESEENTIALLY UNCHANGED BUT THE CHAIRMAN MOVED THE TEXT FROM
THE BODY OF THE ARTICLES AND LABLED IT A "TRANSITIONAL"
PROVISION. THE PROPRIETY IN AN LOS TREATY OF THE PROVIDION
IS QUESTIONED IN THE CHAIRMAN'S INTRODUCTORY NOTE.
WHILE OUR AMENDMENT IS NOT LIKELY TO BE ACCEPTED BY THE
CONFERENCE, WE SHOULD PRESS IT PUBLICLY WHILE WORKING BEHIND
THE SCENES TO HAVE THE TRANSITIONAL PROVISION DELETED.
IT IS OF NOTE THAT THIS ISSUE IS RELATED TO THE ISSUES OF
WHO MAY SIGN THE TREATY AND WHO HAS ACCESS TO DISPUTE
SETTLEMENT PROCEDURES.

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IT IS IMPORTANT NOT TO RAISE THE ISSUE AT THIS TIME SINCE
IT IS NOT PRESENTLY BEFORE THE COMMITTEE FOR DEBATE
AND NEGOTIATION.

II. OTHER ISSUES
A. THE TERRITORIAL SEA. THE RSNT ESTABLISHES
A MAXIMUM 12-MILE LIMIT. THIS IS ALL BUT AGREED.
THE ARTICLES ON INNOCENT PASSAGE IN THE TERRITORIAL
SEA ARE SATISFACTORY. ACCORDINGLY, WE DO NOT WISH
THIS CHAPTER REOPENED. OUR ONE PROBLEM IS THAT THE
TEXT PROHIBITS COASTAL STATE REGULATIONS AFFECTING
CONSTRUCTION, DESIGN, MANNING, AND EQUIPMENT OF
FOREIGN VESSELS IN THE TERRIORIAL SEA: THIS IS
DISCUSSED IN CONNECTION WITH POLLUTION IN COMMITTEE
3 BELOW.

B. STRAITS. THE PVOVISIONS FOR "TRANSIT
PASSAGES" IF STRAITS CONNECTING TWO PORTS OF THE
HIGH SEAS ARE SATISFACTORY. WE WISH TO TREAT THEM AS
AGREED, AND DO NOT WANT THEM REOPENED FOR
NEGOTIATION. HARD-LINE STRAITS STATES (THE
YEMEN, OMAN, SPAIN, CHINA) WILL TRY TO REOPEN THE
ARTICLES. WE ARE WORKING WITH MALAYSIA FOR A
SUPPLEMENTAL AGREEMENT AMONG COASTAL AND USER STATES
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TO SUPPORT SPECIAL REGULATIONS IN IMCO TO
ESTABLISH A TRAFFIC SEPARATION SYSTEM AND UNDER
KEEL CLEARANCE REQUIREMENTS FOR TH MALACCA
STRAITS SO AS TO MINIMIZE THE POSSIBILITY OF
ACCIDENT; THE QUID PRO QUO IS MALAYSIAN SUPPORT
FOR THE STRAITS ARTICLES.
WITH RESPECT TO THE PROBLEM REGARDING THE
STRAITS OF THE RSNT PROVISION IS IDENTICAL TO THE
PROVISION IN THE 1958 CONVENTION, WHICH EGYPT
REFUSED TO SIGN. THIS PROVISION IS UNACCEPTABLE
TO ISRAEL, WHO DESIRES THE SAME RIGHT OF TRANSIT
PASSAGE AS PROVIDED FOR OTHER STRAITS, NOR IS THE
PROVISION FOR NON-SUSPENDABLE INNOCENT PASSAGE
ANY MORE PALATABLE TO EGYPT (AND OTHER ARAB
BLOC STATES) NOW THAN IT WAS IN 1958. THE U.S.
HAS TAKEN THE PSOITION THAT THIS ISSUE IS TOO
EXPLOSIVE TO BE DEALT WITH IN ANY OTHER MANNER
IN THE LOS TREATY, AND A TILTY EITHER WAY FROM THE
RSNT COULD DESTROY THE CONFERENCE.

THE SECRETARY, IF THE ISSUE ARISES, SHOULD
EMPHASIZE THIS LATTER POINT.

C. FISHERIES. THE FISHERIES ARTICLES IN THE

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REVISED SINGLE NEGOTIATING TEXT ARE HIGHLY
NEGOTIATED AND IN MOST RESPECTS ACCEPTABLE TO
THE UNITED STATES. THEY PROVIDE FOR COASTAL STATE
PREFERENTIAL RIGHTS TO COASTAL STOCKS WITHIN THE
200 MILE ECONOMIC ZONE COUPLES WITH OBLIGATIONS
UPON THE COASTAL STATE TO PERMIT FOREIGN FISHING
WITHIN THE 200 MILE ZONE FOR THAT PART OF THE ALLOW-
ABLE CATCH WHICH THE COASTAL STATE IS UNABLE TO
HARVEST. THE RSNT ARTICLE ON SALMON ACCORDS THE
STATE IN WHOSE RIVERS SALMOM SPAWN MANAGEMENT
AUTHORITY OVER THE STOCKS THROUGHTOUT THEIR ENTIRE
MIGRATORY RAANGE, AND WOULD HAVE THE EFFECT OF
PREVENTING ANY NEW HIGHT SEAS FISHING FOR SALMON.
IT REPRESENTS A DELICATE COMPROMISE AMONG THE
STATES INVOLVED AND IS SUPPORTED BY THE US. THE
PROVISIONS ON TUNA REPRESENT A BALANCE BETWEEN
THOSE STATES (US INCLUDED) WHICH SEEK INTERNA-
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TIONAL MANAGEMENT OF SUCH HIGHLY MIGRATORY SPECIES
AND THOS (LIKE ECUADOR AND PERU) WHO SEEK
EXCLUSIVE COASTAL STATE MANAGEMENT WHEN TUNA ARE
FOUND WITHIN THEIR TWO HUNDRED MILE ZONE. WE WOULD
LIKE TO SEE THE TUNA ARTICLE STRENGTHENED IN FAVOR
OF INTERNATIONAL MANAGEMENT, AND CAN ACCEPT IT AS
A MINIMUM. ATTITUDES UPON THE ARTICLE ARE LIKELY
TO BE INFLUENCED BY WEST COAST LATINS. THE OTHER
MAJOR FISHERIES ISSUE INVOLVES ATTEMPTS BY LAND-
LOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES TO
ACHIEVE SOME GUARANTEE OF ACCESS TO FISH RESOURCES
OF THE ECONOMIC ZONES OF NEIGHBORING AND/OR REGIONAL COASTAL
STATES. (SEE PART B ABOVE).

D. RIGHT OF ACCESS OF LANDLOCKED STATES
TO AND FROM THE SEA AND RIGHT OF TRANSIT. THE
RSNT INCLUDES A SECTION DEALING WITH THE
TRADITIONAL ISSUE OF ACCESS TO THE SEA. THESE
ARTICLES DEAL WITH THE RIGHTS OF LANDLOCKED STATES
TO TRANSIT TO SEAPORTS FOR THE PURPOSE OF ENSURING
COMMERCIAL TRADE AND COMMUNICATION. DISAGREEMENTS
REMAIN BETWEEN CERTAIN LANDLOCKED STATES AND
"TRANSIT" STATES ON THESE ISSUES, BUT ON THE WHOLE
THEY SEEM TO REFLECT A REASONABLE COMPROMISE.
U.S. SUBSTANTIVE INTERESTS ARE NOT AFFECTED.

E. HIGH SEAS. TRADITIONAL PROVISIONS RELATING
TO THE HIGH SEAS (E.G. BASELINES, PIRACY, SLAVERY,
ETC.) ARE NOT A PROBLEM AND THE RSNT BASICALLY IN-
CORPORATES THE PROVISIONS OF THE 1958 TREATY.

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F. ARCHIPELOGIC STATES. THE ARCHIPELOGIC
STATES' ARTICLES HAVE BEEN HIGHLY NEGOTIATED BY
THE UNITED STATES AND CERTAIN ARCHIPELOGIC STATES,
PRIMARILY FIJI, THE BAHAMAS AND INCONESIA. THE
PRESENT ARTICLES ARE A DELICATE BALANCE BETWEEN
1) THE DESIRES OF THE ARCHIPELOGIC STATES TO
ENCLOSE THEIR ISLANDS WITHIN BASELINES FOR
ECONOMIC AND SECURITY REASONS AND 2) THE STRATEGIC
REGUIREMENTS OF THE MAJOR MARITIME POWERS TO
HAVE GUARANTEED RIGHTS FOR THE CONTINUOUS AND
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EXPEDITIOUS TRANSIT THROUGH AND OVER
ARCHIPELOGIC WATERS VIA SEALANES.
OUTSTANDING MAJOR ISSUES RELATE TO 1) THE
BREADTH OF SEALANES, AND 2) AND EFFORT BY INDONESIA
TO DISTINGUISH BETWEEN STATE AND CIVIL AIRCRAFT.
THE PRINCIPAL ARCHIPELOGIC STATES INCLUDE
INDONESIA, FIJI, THE BAHAMAS, PAPUA NEW GUINEA AND
THE PHILIPPINES. THE LAST-NAMED HAS BEEN THE LEAST
COOPERATIVE.
THE EXISTING ARTICLES, IN THE MAIN, ARE
SATISFACTORY TO THE UNITED STATES.

COMMITTEE III

I. SCIENTIFIC RESEARCH

A. BACKGROUND

THE EXISTING TEXT GOES MUCH TOO FAR IN THE DIRECTION OF
COASTAL STATE CONTROL OVER MARINE SCIENTIFIC RESEARCH IN
THE ECONOMIC ZONE ALGHOUGHT WE HAVE ALWAYS RECOGNIZED THAT
THE STRONG DEMANDS OF ALMOST ALL DEVELOPING COASTAL STATES
IN THIS REGARD WOULD HAVE TO BE ACCOMMODATED. THE
SCIENTIFIC COMMUNITY, THE PRESIDENT OF THE NATIONAL ACADEMY OF
SCIENCE--DR. PHILIP HANDELER-AND A NUMBER OF PEOPLE IN
CONGRESS ARE STRONGLY OPPOSED TO THE TEXT. SOME SCIENTISTS
HAVE STATED THAT THEY WOULD GO SO FAR TO OPPOSE RATIFICATION
OF THE TREATY IF THE TEXT WERE NOT SUBSTANTIALLY AMENDED.
THE US ORIGINALLY PROPOSED THAT SCIENTIFIC RESEARCH IN
THE ECONOMIC ZONE BE SUBJECT TO CERTAIN OBLIGATIONS ON THE
RESEARCH STATE, INCLUDING NOTICE TO THE COASTAL STATE,
A RIGHT FOR THE COASTAL STATE TO PARTICIPATE IN THE RESEARCH,
SHARING OF DATA AND RESULTS, AND ASSISTANCE TO THE COASTAL
STATE IN INTERPRETING THE DATA. WE HAVE CONSISTENTLY
OPPOSED A RIGHT OF COASTAL STATE CONSENT (EXCEPT FOR DRILLING
INTO THE SEABED), WHILE THE LARGE MAJORITY OF COASTAL STATES
HAVE CONSISTENTLY SOUGHT A RIGHT OF CONSENT FOR ALL SCINETIFIC
RESEARCH IN THE ECONOMIC ZONE. IN YOUR APRIL 8

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SPEECH, WE AGREED TO A COMPROMISE WHICH WAS INCLUDED IN THE
GENEVA SNT, WHICH WOULD INCLUDE THE US OBLIGATIONS, BUT
WOULD ALSO GIVE THE COASTAL STATE A RIGHT OF CONSENT
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FOR SCIENTIFIC RESEARCH DIRECTLY RELATED TO THE EXPLORATION
AND EXPLOITATION OF THE NATURAL RESOURCES OF THE ECONOMIC
ZONE, WITH COMPULSORY DISPUTE SETTLEMENT PROCEDURES TO
MAKE FINAL DETERMINATIONS IN CASE OF DISAGREEMENT. NEGOTIATIONS
ON SCIENTIFIC RESEARCH BOGGED DOWN IN THE SPRING IN
PART BECAUSE CERTAIN COASTAL STATES INSISTED THAT THE COM-
PROMISE FORMULA DID NOT PROTECT THEIR SECURITY INTERESTS;
WE, IN TURN, REFUSED TO AGREE TO A PROPOSAL FOR A COSATAL
STATE RIGHT TO DENY CONSENT ON SECURITY-RELATED GROUNDS,
WHICH WOULD HAVE BEEN A MAJOR CHANGE IN THE CHARACTER OF
THE ZONE.
IN THE CLOSING DAYS OF THE SPRING SESSION, THE USSR
INFORMALLY PROPOSED A NEW COMPROMISE WHICH THE BULGARIAN
CHAIRMAN OF THE COMMITTEE INCORPORATED INTO THE RSNT
DESPITE STRONG US OBJECTIONS. UNDER THIS APPROACH, THE
RESEARCHING STATE NOTIFIES THE COASTAL STATE IN ADVANCE OF
ANY PROJECT AND IS REQUIRED TO FULFILL THE OBLIGATIONS
PROPOSED ORGINALLY BY THE UNITED STATES. HOWEVER, THE
CONSENT OF THE COASTAL STATE IS REQUIRED FOR ALL
SCIENTIFIC RESEARCH IN THE CONOMIC ZONE AND ON THE CONTIN-
ENTAL SHELF, BUT SUCH CONSENT SHALL NOT BE WITHHELD UNLESS
THE RESEARCH (1) BEARS SUBSTANTIALLY ON THE EXPLORATION FOR AND
EXPLOITATION OF NATURAL RESOURCES, (2) INVOLVES DRILLING OR
THE USE OF EXPLOSIVES, (3) UNDULY INTERFERES WITH COASTAL
STATE ECONOMIC ACTIVITIES IN THE ECONOMIC ZONE, OR (4)
INVOLVES AN ARTIFICIAL ISLAND OR INSTALLATION UNDER COASTAL
STATE JURISDICTION PURSUANT TO OTHER PROVISIONS AT THE
TREATY. THERE IS ALSO A PROVISION THAT THE PROJECT CAN GO
FORWARD IF THE COASTAL STATE DOES NOT RESPOND TO THE NOTI-
FICATION BY THE RESEARCHING STATE AT LEAST 2 MONTH S BEFORE
THE PROJECT IS DUE TO BEGIN. FINALLY, THE TEXT PROVISED
THAT BINDING THIRD-PARTY DISPUTE SETTLEMENT PROCEDURES WILL
APPLY TO ALL CASES OF DISAGREEMENT BETWEEN THE RESEARCHING
AND COASTAL STATES. HOWEVER, THE SCIENTIFIC RESERACH PROJECT
MAY NOT GO FORWARD WHILE DISPUTE SETTLEMENT IS UNDERWAY.
THERE ARE TWO VERY SERIOUS PROBLEMS WITH THE REGIME IN
THE REVISED TEXT:
--THE BASIC CONCEPT OF REQUIRING COASTAL STATE CONSENT
FOR ALL SCIENTIFIC RESEARCH; AND
--THE BROAD, VAGUE WORDING OF THE PROVISION ALLOWING THE
COASTAL STATE TO WITHHOLD CONSENT.
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THE OVERALL CONSENT CONCEPT ADDS ANOTHER ELEMENT OF COASTAL STATE CONTROL AND JIRISDICTION TO THE ECONOMIC ZONE, MAKING IT MUCH MORE LIKE A TERRITORIAL SEA. THE OVERALL CONSENT CONCEPT ITSELF DOES NOT PROVIDE THE COASTAL STATE WITH THE LEGAL AUTHORITY TO STOP ANY PROJECT SINCE THE CONDITIONS FOR WITHHOLDING CONSENT ARE SPECIFIED (ALTHOUGH THE CONDITIONS IN THE RSNT ARE MUCH TOO BRAOD.) HOWEVER, 8, 5#3)9,&-TERM DEVELOPMENT OF THE LAW OF THE SEA AND PERHAPS IN PRACTIC IN SOME CASES, THE CONSENT REQUIREMENT MAY WELL BECOME COMPLETE.
ON THE SECOND POINT ABOVE, THE CONDITIONS FOR WITHHOLDING CONSENT ARE BRAOD, PARTICULARLY THE REFERENCE TO POSSIBLE INTERFERENCE WITH COASTAL STATE ECONOMIC ACTIVITIES, AND COULD BE UTILIZED BY A COASTAL STATE TO STOP ALMOST ANY SCIENTIFIC RESEARCH PROJECT. THEY MUST BE AMENDED.
THE OTHER SERIOUS PROBLEMS ARE (1) WE OPPOSE APPLQNG ANY CONSENT REGIME (EXCEPT FOR DRILLING) TO THE CONTINENTAL SHELF BEYOND 200 MILES, AND (2) THE AUTOMATIC CESSATION OF A PROJECT DURING DISPUTE SETTLEMENT. ONE OF OUR PROBLEMS IN DEALING WITH THE CONTINENTAL SHELF ISSUE IS THAT UNDER THE EXISTING 1958 CONTINENTAL SHELF CONVENTION, TO WHICH WE ARE A PARTY, COASTAL STATE CONSENT IS REQUIRED FOR SCIENTIFIC RESEARCH CONCERNING THE CONTINENTAL SHELF AND UNDERTAKEN THERE; ITS OBLIGATION IS NOT "NORMALLY" OT DENY CONSENT FOR RESEARCH BY A "AUALIFIIED INSTITUTION".
THERE ARE IMPORTANT POSITIVE ELEMENTS IN THE REVISED TEXT:
--ALL SCIENTIFIC RESEARCH DISPUTES ARE SUBJECT TO BINDING THIRD-PARTY DISPUTE SETTLEMENT PROCEDURES. WHILE THIS DOES NOT, IN A PRACTICAL SENSE, SAVE AN INDIVIDUAL PROJECT, IT DOES PROVIDE SAFEGUARDS AGAINST ARBITRARY ACTION.
--ALL REQUESTS FOR SCIENTIVIC RESEARCH PROJECTS ARE SUBJECT TO A TACIT CONSENT SYSTEM. THUS, IF REQUESTS ARE NOT ANSWERED, WHICH IS OFTEN THE CASE TODAY, THE PROJECT MAY PROCEED. HOWEVER, THIS POSITIVE ASPECT MIGHT BE NEGATED IF RESEARCHERS ARE UNABLE OR UNWILLING TO PLAN AND OPERATE IN THIS UNCERTAIN ATMOSPHERE.
--THE COASTAL STATE DOES NOT HAVE THE RIGHT TO REFUSE CONSENT ON SECURITY GROUNDS, THUS AVOIDING A MAJOR CHANGE IN THE NATURE OF THE ECONOMIC ZONE.

B. CURRENT NEGOTIATING STATUS
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COMMITTEE III HAS HAD TWO DAYS OF DEBATE ON THE BASIC REGIME FOR SCIENTIFIC RESEARCH AND WILL CONCLUDE COMMITTEE-LEVEL DEBATE ON MONDAY, AUGUST 9. CHAIRMAN YANKOV (BULGARIA) WILL THEN HOLD PRIVATE SMALL-GROUP

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NEGOTIATIONS TO ATTEMPT TO FIND A COMPROMISE. THE UNITED
STATES HAS INTERVENED TWICE WITH STRONG STATEMENTS INDICATING
THE UNACCEPTABILITY OF THE REVISED TEXT, THE NECESSITY OF
DELETING THE OVERALL CONSENT CONCEPT, AND THE FACT THAT A
FAILURE TO ACHIEVE MAJOR CHANGES WOULD RAISE SERIOUS QUESTIONS
OF THE UNITED STATES BECOMING PARTY TO THE TREATY.
WE HAVE BEEN SUPPORTED, IN VARYING DEGREES OF FIRMNESS, BY
THE EUROPEAN ECONOMIC COMMUNITY, FINLAND AND JAPAN. WE HAVE
BEEN OPPOSED BY A LARGE NUMBER OF DEVELOPING COASTAL
STATES (20 SPEAKERS TO DATE INCLUDING THE PRC), MANY OF
WHOM HAVE ARGUED THAT THE REVISED TEXT NEEDS TO BE AMENDED
TO PROVIDE FURTHER AUTHORITY FOR THE COASTAL STATE.
IN SUM, THE COMMITTEE IS POLARIZED. WHILE NO ONE HAS PRO-
POSED COMPROMISES, MEXICO AND AUSTRALIA AND POSSIBLY NORWAY
ARE INTERESTED IN PLAYING A MEDIATING ROLE. THE
USSR HAS NOT SPOKEN PUBLICLY ALTHOUGH THEY HAVE PRIVATELY TOLD
US THEY COULD ACCEPT THE REVISED TEXT.

C. DELEGATION STRATEGY

THE DELEGATION IS TAKING AN EXTREMELY HARD LINE BOTH
PUBLICLY AND PRIVATELY AND IS NOT PUTTING FORWARD IN PUBLIC
THE U.S. AMENDMENTS TO THE TEXT. ANY U.S. PORPOSALS FOR
COMPROMISE WILL NOT BE WELL-RECEIVED AND WOULD BE
VIEWED AS A SIGN OF WEAKNESS. ALSO, IT IS OUR ASSESSMENT
THAT ONLY THE U.S., THE FRG, AND POSSIBLY FRANCE STRONGLY
OPPOSE THE CONSENT REGIME. THE OTHERS WHO ARE PUBLICLY
SUPPORTING US WILL, IN THE END, CONCEDE THE ISSUE.
CONSEQUENTLY, WE MUST REMAIN FIRM WITH OUR COMPROMISE
PROPOSALS IN FACT BEING MADE BY OTHER COUNTRIES, POSSIBLY
AUSTRALIA OR NORWAY. WE WILL ENCOURAGE THEM AND MEXICO
TO DO THIS IN THE SMALL GROUP NEGOTIATIONS. MORE IMPORTANTLY,
WE ARE WORKING TO CONVINE THE SOVIETS TO SUPPORT A CMPROMISE
OR, AT A MINIMUM, TO BE SILENT AND ALLOW CHAIRMAN YANKOV
(BULGARIA) A FREE HAND TO SEEK COMPROMISE. NO STRATEGY
CAN SUCCEED IF THE USSR OPPOSES US EITHER PUBLICLY
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OR PRIVATELY.

D. YOUR ROLE AT THIS TIME

THE DELEGATION NEEDS YOUR ASSISTANCE AT THIS TIME IN TWO
WAYS:

--SECURING SOVIET ASSISTANCE IN AMENDING THE TEXT, AND;
--CONVINCING THE OTHERS YOU WILL MEET THAT THIS IS

E. FUTURE STRATEGY

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IF YOUR VISIT ACHIEVES THE ABOVE OBJECTIVES, WE WOULD
THEN WORK IN YANKOV'S SMALL GROUP NEGOTIATIONS TOWARD OUR
PROPOSALS, CONTINUING TO UTILIZE THE GOOD OFFICES OF OTHER
DELEGATIONS TO SEEK THE DESIRED SUBSTANTIVE OUTCOME.
IF THE ABOVE STRATEGY FAILS AND THE COMMITTEE MOVES TOWARD
CONSENSUS ON AN UNSATISFACTORY BASIS, WE WILL WORK TO
PREVENT ANY AGREEMENT ON THE ISSUE, THUS PRESERVING IT
FOR A LATER STAGE OF NEGOTIATIONS.

II. MARINE POLLUTION

A. BACKGROUND

THERE IS ONE MAJOR ISSUE OF CONTROVERSY IN THIS AREA
REQUIRING FURTHER NEGOTIATION. WE HAVE ARGUED, WITH THE SUPPORT
OF CANADA, AUSTRALIA, AND MANY DEVELOPING COASTAL STATES,
THEE SHOULD BE NOR RESTRICTIONS ON COASTAL STATE AUTHORITY
TO ESTABLISH VESSEL POLLUTION CONTROL REGULATIONS IN THE
TERRITORIAL SEA (OUTSIDE STATES) OTHER THAN A REQURIEMENT
NOT TO HAMPER INNOCENT PASSAGE. THE U.K., USSR, JAPAN AND
OTHERS SUPPORTA PROVISION IN THE CURRENT COMMITTEE 2
RSNT THAT THERE SHOULD BE NO COASTAL STATE RIGHT TO SET
CONSTRUCTION, DESIGN, EQUIPMENT, AND MANNING REGULATIONS.
THE U.K. GOES EVEN FURTHER AND WOULD RESTRICT RIGHTS TO
ESTABLISH MORE STRICT SAFETY REQUIREMENTS. EXISTING U.S.
DOMESTIC LAW AUTHORIZES SUCH REGULATIONS, AND WE HAVE BEEN
STERNLY QUESTIONS BY CONGRESS ON THE ISSUE.

THE RSNT CONTAINS NO RESTRICTIONS ON COASTAL STATE STANDARD
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SETTING IN THE POLLUTION TEXT IN PART III, BUT DOES HAVE
SUCH A RESTRICTION IN PART II OF THE TEXT. WE HAVE OFFERED
THE GROUP OF FIVE A COMPROMISE IN WHICH WE WOULD ACCEPT THE
RESTRICTION ON COASTAL STATE RIGHTS TO ESTABLISH ALL TYPES OF
REGULATIONS, EXCEPT THOSE AIMED AT POLLUTION PREVENTION,
IF THEY WOULD AGREE TO FIGHT THE ISSUE ONLY IN VCOMMITTEE III.
THIS WOULD ALLOW US TO PRESDNT A UNITED FRONT IN COMMITTEE II
ON NAVIGATION ISSUES, WHILE MOVING THIS ISSUE TO COMMITTEE III
WHERE WE WOULD HAVE A TACTICAL ADVANTAGE. THE USSR HAS
ACCEPTED A MODIFICATION OF THE US AMENDMENT IN THE COMMITTEE
II SECTION OF THE RSNT SUBJECT TO APPROVAL BY OTHER MEMBERS
OF THE GROUP OF FIVE. THE U.K. HAS REJECTED THE AMENDMENT
AND WANTS THE ISSUE TO REMAIN IN COMMITTEE II.

IN GENERAL TERMS, THE REMAINDER OF THE REVISED TEXT IS
ACCEPTABLE TO US AND PROBABLY TO THE CONFERENCE AS A
WHOLE ALTHOUGH WE AND PROBABLY OTHERS HAVE SOME OTHER ISSUES
TO RAISE. THE TEXT BEGINS WITH A SERIES OF ARTICLES
SETTING OUT GENERAL OBLIGATIONS TO PREVENT POLLUTION,

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REQURIEMENTS TO COOPERATE WITH OTHERS, REQUIREMENTS TO ASSESS POSSIBLE FUTURE POLLUTION, AND GENERAL OBLIGATIONS TO PROVIDE TECHNICAL ASSISTANCE FOR POLLUTION CONTROL. THERE ARE SEVERAL ARTICLES WITH OBLIGATIONS TO ESTABLISH AND ENFORCE REGULATIONS REGARDING LAND-SOURCE MARINE POLLUTION, POLLUTION FROM SEABED ECONOMIC ACTIVITIES, AND POLLUTION FROM OCEAN DUMPING OF WASTES. THE MAJOR PORTION OF THE TEXT DEALS WITH VESSEL SOURCE POLLUTION. IT PROVIDES STRICT FLAG STATE OBLIGATIONS TO ENACT AND ENFORCE POLLUTION CONTROL REGULATIONS, RIGHTS FOR THE PORT OF ARRIVAL STATE TO ENFORCE AGAINST VIOLATIONS OF INTERNATIONAL DISCHRAGE REGULATIONS, AND LIMITEC COASTAL STATE RIGHTS TO ENFORCE AGAINST VESSELS IN THE ECONOMIC ZONE FOR GROSS OR FLAGRANT VIOLATIONS CAUSING MAJOR DAMAGE. THERE ARE ALSO A SERIES OF PROCEDURAL SAFEGUARDS, A MILITARY EXEMPTION, AND A REQUIRMENT FOR BINDING THIRD-PARTY SETTLEMENT OF DISPUTES.

B. CURRENT NEGOTIATING STATUS

CHAIRMAN YANKOV HAS IDENTIFIED THE QUESTION OF COASTAL STATE STANDARD-SETTING REGARDING VESSEL POLLUTION IN THE TERRITORIAL SEA AS A MAJOR OUTSTANDING ISSUE. COMMITTEE

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LEVEL DISCUSSION OF THE ISSUE BEGINS MONDAY AFTERNOON, AUGUST 9. ALL OF THE MAJOR MARITIME POWERS (EUROPEANS, USSR, AND JAPAN) CONTINUE TO STRONGLY SUPPORT THE RESTRICTION ON COASTAL STATE AUTHORITY AND SOME DEVELOPING COUNTRIES SUPPORT THEM. CANADA, AUSTRALIA, NEW ZEALAND, AND MOST DEVELOPING COUNTRIES CONTINUE TO SUPPORT OUR POSITION TO DELETE THE RESTRICTION. BECAUSE OF THE NATURE OF THE ISSUE, IT IS EXTREMELY DIFFICULT TO FIND SUBSTANTIVE COMPROMISE.

C. DELEGATION STRATEGY

OUR STRATEGY IS TO ISOLATE OUR OPPONENTS IN ORDER TO CONVINCE THEM THAT THEY CANNOT SUCCEED AND SHOULD ACCEPT OUR APPROACH (THE USSR EARLIER PRIVATELY INDICATED SOME FLEXIBILITY). THE U.K. IS UNLIKELY TO CONCEDE IN ANY SITUATION AND IS LOBBYING CONGRESS. IF WE CANNOT ISOLATE OUR OPPONENTS, WE WILL CONSIDER PROPOSING AMENDMENTS TO LIMIT THE SCOPE OF THE ARTICLE. HOWEVER, WE WILL DO SO NLY IF OUR PRIMARY STRATEGY FAILS AND, IN ANY CASE, ONLY AT A LATER STAGE OF THE NEGOTIATION.

D. YOUR ROLE AT THIS POINT

IT IS NOT NECESSARY FOR YOU TO RAISE THE ISSUE AT THIS POINT EXCEPT DURING YOUR MEETING WITH THE CONFERENCE LEADERSHIP. HOWEVER, THE U.K., AND POSSIBLY THE USSR AND FRG, MAY

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RAISE THE ISSUE WITH YOU. SINCE WE WILL NOT BE AT A POINT
REQUIRING COMPROMISE, YOU WOULD SIMPLY INDICATE FIRMNESS ON
OUR POSITION.

E. FUTURE STRATEGY

IF OUR PRIMARY STRATEGY IS SUCCESSFUL, THERE WILL BE NO
FURTHER ROLE FOR YOU. IF IT IS NOT, WE MAY NEED YOUR
FUTURE ASSISTANCE TO CONVINCE THE U.K. AND POSSIBLY OTHERS
TO ACCEPT COMPROMISE AMENDMENTS.

DISPUTE SETTLEMENT:

A. BACKGROUND

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PART IV OF THE REVISED SINGLE NEGOTIATING TEXT (RSNT) SETS FORTH
A COMPREHENSIVE SYSTEM FOR THE COMPULSORY SETTLEMENT OF DISPUTES
THROUGH
PROCEDURES ENTAILING A LEGALLY GINDING DECISION. THE US HAS STRONGLY
SUPPORTED THIS APPROACH. IT IS NOW WIDELY AGREED IN THE CONFERENCE
THAT
SOME SUCH SYSTEM SHOULD BE INCLUDED IN THE TREATY, BUT OPPONENTS WILL
TRY TO WATER DOWN THE SYSTEM WITH EXCEPTIONS AND QUALIFIACTIONS.
THE TEXT OF PART IV OF THE RSNT IS LARGELY ACCEPTABLE TO THE
U.S. THERE ARE, HOWEVER, A NUMBER OF DIFFICULT ISSUES REMAINING
IN WORKING OUT THE SPECIFICS OF THE SYSTEM. MOREOVER, IT IS
A RATHER COMPLEX SYSTEM ENTAILING A NUMBER OF
ALTERNATIVE PROCEDURES.
WE WOULD LIKE TO SIMPLIFY IT IF POSSIBLE, BUT THIS MAY BE
QUITE DIFFICULT SINCE THE PARTICIPANTS HAVE WIDELY VARYING
PREFERENCES FOR THE FORA IN WHICH THEY COULD BE SUED AND THERE
IS A STRONG FEELING THAT A STATE SHOULD
ONLY BE SUED IN A FORUM IT HAS CHOSEN.
PART I OF THE RSNT (DEEP SEABEDS) WOULD ESTABLISH A LARGELY SEPARATE
SYSTEM FOR COMPULSORY DISPUTE SETTLEMENT WITH RESPECT TO DISPUTES
RELATING TO THE DEEP SEABED. THE RELATIONSHIP BETWEEN THE
NEW SEABED TRIBUNAL AND THE PROCEDURES OF PART IV, WHICH INCLUDE
A NEW LAW OF THE SEA TRIBUNAL RMAINS TO BE RESOLVED. A NUMBER
OF STATES FAVOR MERGING THE TWO TRIBUNALS, BUT OUR INDUSTRY IS
OPPOSED.

B. MAIN ISSUES.

1. JURSIDICTION IN THE CONOMIC ZONE. THE MOST IMPORTANT AND
DIFFICULT ISSUE RELATING TO PART IV IS THE APPLICATION OF COMPULSORY
SETTLEMENT OF DISPUTES ARISING FROM THE EXERCISE OF COASTAL
STATE RIGHTS IN THE ECONOMIC ZONE. ART. 18 OF THE PRESENT TEXT
EXCLUDES SUCH DISPUTES, AND THEN MAKES A NUMBER OF EXCEPTIONS

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TO THAT EXCLUUON RELATING TO INTERFERENCE WITH NAVIGATION,
OVERFLIGHT, SUBMARIE CABLES AND PIPELINES AND THE EN-
VIRONMENT. THE MAIN TREND IN THE GROUP OF 77 IS TO ST-
RENTHEN THE INCLUSIN WHICH MOST DEVELOPED COUNTRIES WISH
TO STRENGTHEN THE EXCEPTIONS TO THE EXCLUSION IN ORDER TO
SUBMIT TO DISPUTE SETTLEMENT SCIENTIFIC RESEARCH AND FISHERIES
AS WELL. THIS IS IN A BROADER SENSE ONE ASPECT OF THE BASIC
CONTINGENCY IN COMMITTEE II OVER THE NATURE OF THE ECONOMIC ZONE,
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WITH THE MARITIME STATES EMPHASIZING ITS INTERNATIONA CHARACTER,
PARTICULARLY ON MATTERS OTHER THAN RESOURCES.
THERE SEEMS TO BE GROWING SUPPORT FOR THE VIEW THAT DISPUTES
RELATING TO INTERFERENCE WITH FREEDOM OF NAVIGATION AND OVERFLIGHTIN
THE ECONOMIC ZONE SHOULD BE SUBJECT TO DISPUTE SETTLEMENT. IT
ALSO SEEMS LIKELY THAT A VIOLATION OF INTERNATIONAL STANDARDS
RELATING TO MARINE ENVIRONMENT WILL BE SUBJECT TO DISPUTE
SETTLEMENT. AT THIS SESSION THERE WERE SOME INDICATIONS (E.G.
BY CHILE) THAT AT LEAST SOME DISPUTES RELATING TO SCIENTIFIC RESEARCH
COULD BE SUBJECT TO DISPUTE SETTLEMENT.
MANY COASTAL STATES SEEM TO BE RECONCILED TO THE FACT THAT THE
BASIC RULE IS COMPULSORY JURISDICTION OVER ALL DISPUTES RELATING
TO THE INTERPRETATION OR APPLICATION OF THE CONVENTION, WITH
SOME EXEMPTIONS. BUT MEXICO AND INDIA ARE STILL STRONGLY NEGATIVE
ABOUT ANY INTERNATIONAL INTERFERENCE WITH THE RIGHTS
OF THE COASTAL STATE.
OUR GOAL IS TO ACHIEVE AGREEMENT ON DISPUTE SETTLEMENT ON THE
ABOVE ISSUES, SO THAT THE REMAINING PRINCIPAL ISSUE IS THE
EXTENT TO WHICH DISPUTE SETTLEMENT SHOULD APPLY TO FISHERIES.
THERE MIGHT BE A POSSIBILITY OF EXTENDING DISPUTE SETTLEMENT TO
THE QUESTION OF CONSERVATION OF LIVING RESOURCES. THERE IS
LESS LIKELIHOOD THAT THE COASTAL STATES WILL ACCEPT ANY LIMITATIONS
ON THE MANAGEMENT OF THESE RESOURCES. THEY ARE OPPOSED TO ANY SECOND
-
GUESSING BY AN INTERNATIONAL BODY WITH RESPECT TO DECISIONS
RELATING TO MAXIMUM SUSTAINABLE YIELD, OR THE CAPACITY OF
THE COASTAL STATE TO HARVEST LIVING RESOURCES; THEY REJECT
ANY CONTROLS OVER THEIR DECISIONS RELATING TO THE RIGHT OF ACCESS
OF ANY PARTICULAR FOREIGN COUNTRY. SOME MEMBERS OF CONGRESS
ARE LIKELY TO HAVE THE SAME ATTITUDE.

2. COMPETENT ORGAN. PART IV ALLOWS EACH STATE WIDE LATITUDE
IN CHOOSING A FORUM SO LONG AS AT LEAST ONE METHOD OF
COMPULSORY DIS-
PUTE SETTLEMENT LEADING TO ABINDING DECISION APPLIES TO SUITS
AGAINST EVERY PARTY.

FROM THE BEGINNING OF THE NEGOTIATIONS, IT WAS CLEAR THAT MOST
AFRICAN COUNTRIES AND SOME ASIAN AND LATIN AMERICAN COUNTRIES, AS
WELL AS THE SOVIET UNION AND FRANCE WERE OPPOSED TO CONFERRING

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UURISDICTION ON THE INTERNATIONAL COURT OF JUSTICE. A
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FEW STATES, ESPECIALLY JAPAN AND SOME EUROPEAN COUNTRIES, HAVE STRONGLY SUPPORTED THE COURT, REGARDLESS OF THIS OPPOSITION. FRANCE AND THE SOVIET UNION PREFER SPECIAL COMMISSIONS OF TECHNICAL CHARACTER TO DEAL WITH FISHERIES, MARINE POLLUTION, SCIENTIFIC RESEARCH, AND NAVIGATION; THEY ARE WILLING TO ACCEPT ARBITRATION FOR OTHER SUBJECTS. THERE IS ALSO A GROUP OF COUNTRIES PREFERRING SIMPLE ARBITRATILN PROCEDURES. THE MAJORITY OF THE MEMBERS OF THE GROUP OF 77 WHO ARE ACTIVE ON DISPUTE SETTLEMENT PREFER A SPECIAL LOS TRIBUNAL, AND INDIA AND ALGERIA RECENTLY ENDORSED IT.

THE SO-CALLED RIPHAGEN FORMULA, INVENTED BY THE NETHERLANDS LEGAL ADVISER, ALLOWS EACH COUNTRY TO CHOOSE, AT THE TIME OF RATIFICATION, ONE OR MORE OF FOUR DISPUTE SETTLEMENT FORA: THE INTERNATIONAL COURT OF JUSTICE; ARBITRATION; THE LOS TRIBUNAL; OR THE SYSTEM OF SPECIAL COMMISSIONS (WITH ARBITRATION FOR OTHER SUBJECTS). WHEN BOTH COUNTRIES ACCEPT THE SAME FORUM, THERE IS NO PROBLEM; IF THEY HAVE ACCEPTED DIFFERENT FORA, THE PLAINTIFF HAS TO GO TO THE FORUM CHOSEN BY THE DEFENDANT. THE FORMULA HAS BASICALLY BEEN INCORPORATED INTO THE RSNT. THE UNITED STATES FAVORS THE FLEXIBILITY OF THE RIPHAGEN FORMULA; THE SOVIET UNION HAS ACCEPTED IT, THOUGH IT DOES NOT LIKE THE LOSE TRIBUNAL. THE FRENCH, AND TO SOME EXTENT THE BRITISH, PREFER A STRAIGHT ARBITRATION FORMULA; THEY WOULD APPLY IT, AT LEAST, IN ANY CASE WHERE THE TWO DECLARATIONS BY THE PARTIES TO THE DISPUTE DO NO COINCIDE.

3. TWO TRIBUNALS
THE UNITED STATES WAS THE FIRST TO PROPOSE A SEA-BED TRIBUNAL WITH A SPECIAL JURISDICTION, SIMILAR TO THE FRENCH CONSEIL D'ETAT AND THE COURT OF JUSTICE OF THE EUROPEAN COMMUNITIES, FOR DISPUTES BETWEEN THE DEABED AUTHORITY AND STATES OR PRIVATE CONTRACTORS. IT WAS ALSO THE UNITED STATES PROPOSAL IN 1973 WHICH FIRST SUGGESTED THE ESTABLISHMENT OF AN OVERALL LOS TRIBUNAL FOR NON-SEABED MATTERS. THE PROPOSAL WAS PROMPTED BY THE NEED FOR PROTECTING THE VARIETY OF US INTERESTS IN THE OCEANS AND FOR PREVENTING THE MANY LIKELY OCEAN DISPUTES FROM ESCALATING INTO DANGEROUS CONFLICTS OF THE "COD WAR" VARIETY. THE UNITED STATES WANTED ALSO TO ACHIEVE SOME
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UNIFORMITY IN THE INTERPRETATION OF THE LOS CONVENTION,
WHICH COULD BE DESTROYED IF A VARIETY OF ARBITRAL TRI-
BUNALS SHOULD
INTERPRET THE CONVENTION IN MANY DIFFERENT WAYS,
ESPECIALLY ON REGIONAL LINES.

THE SEABED TRIBUNAL WOULD BE ELECTED BY THE SEABED
ASSEMBLY ON NOMINATION OF THE SEABED COUNCIL, THUS
ENSURING A MEASURE OF INFLUENCE OF THE MAJOR POWERS ON
THE SELECTION OF THE JUDGES. THE LOS TRIBUNAL WOULD BE
ELECTED BY A CONFERENCE OF THE CONTRACTING PARTIES,
BY A TWO-THIRDS MAJORITY, WITH SOME PROTECTION FOR THE
DEVELOPED COUNTRIES (ESPECIALLY IF THEY HAVE SOME SUPPORT
FROM THE LANDLOCKED ONES), BUT WITH LESS GUARANTEE OF FAVORABLE
ELECTIONS THAN IS LIKELY IN THE SEABED TRIBUNAL. THE
CURRENT DRAFT OF THE STATUTE OF THE LOS TRIBUNAL INCLUDES
REGIONAL FORMULA FOR THE SELECTION OF JUDGES (WESTERN EUROPE
AND OTHERS - 3, EASTERN EUROPE - 2, ASIA - 3, LATIN
AMERICA - 3, AFRICA - 4), WHICH THE UNITED STATES AND THE
WESTERN EUROPEAN COUNTRIES HAVE FOUND UNSATISFACTORY.
AN ATTEMPT WILL BE MADE TO ELIMINATE THIS FORMULA, AS
IT IS ARBITRARY WITH THE IDEA OF AN INDEPENDENT TRIBUNAL,
ANDENCOURAGES THE VIEW THAT JUDGES REPRESENT REGIONS.

C. STRATEGY AND FUNCTION OF YOUR VISIT

UNLIKE COMMITTEES I AND II, THE INFORMAL PLENARY CONSIDERING
DISPUTE SETTLEMENT HAS NOT YET BEEN THE
SCENE OF POLARIZATION ALONG NORTH/SOUTH LINES OR BETWEEN
COASTAL, LANDLOCKED/GEOGRAPHICALLY DISADVANTAGED AND MARITIME
STATES. HOWEVER, PART IV OF THE RSNT HAS NOT BEEN THE RESULT OF
AS INTENSIVE NEGLTIATION AS THE OTHER PARTTS, AND THUS IS
NOT VIEWED AS A "REVISED" SNT IN THE SENSE OF THE OTHER
TEXTS. MANY COASTAL STATES HAVE CONSIDERED IT PREMATURE UP
TO NOW TO CNSIDER DISPUTE SETTLEMENT SERIOUSLY, SINCE IT IS
DEPENDENT IN CRITICAL RESPECTS ON WHAT IS SETTLED IN
THE MAIN COMMITTEES. SINCE MAHY STATES ARE NOW PARTICIPATING
ACTIVELY FOR THE FIRST TIME ON THE SUBJECT, THE PARAMETERS
OF OUR NEGOTIATING HURDLES ARE AS YET UNCLEAR. ACCORDINGLY,
WE ARE SEEKING TO CLARIFY THE STRENGTH OF MOVES TO COMBINE
THE TRIBUNALS, SIMPLIFY THE CHOICE OF PROCEDURES, AND
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ALTER THE EXCLUSION OF DISPUTES ARISING FROM THE EXERCISE OF
COASTAL STATE RIGHTS IN THE ECONOMIC ZONE. SPECIFIC STRATEGIES
FOR KNOW PROBLEMS, LIKE THE FRENCH/BRITISH INSISTENCEON
ARBITRATION AS THE PRIMARY PROCEDURE, ARE REFLECTED IN THE
COUNTRY PAPERS.

YOUR VISIT AT THIS POINT IS MOST USEFUL FOR

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EMPHASIZING THE IMPORTANCE OF COMPULSORY DISPUTE SETTLEMENT
FOR MOST DISPUTES, ESPECIALLY RELATING TO THE ECONOMIC
ZONE, AND THE NEED TO CONCENTRATE ON REACHING REASONABLE
ACCOMMODATIONS THAT DO NOT SUBVERT THIS PRINCIPLE.
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Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TOSEC, LAW OF THE SEA, COMMITTEE MEETINGS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 AUG 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: saccheem
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE196781
Document Source: CORE
Document Unique ID: 00
Drafter: O:AOTTO:MDJ
Enclosure: ADDITIONAL HANDLING RESTRICTION EXDIS
Executive Order: GS
Errors: n/a
Film Number: D760305-0116
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760875/aaaacnet.tel
Line Count: 1200
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN SS
Original Classification: SECRET
Original Handling Restrictions: ONLY, STADIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 22
Previous Channel Indicators: n/a
Previous Classification: SECRET
Previous Handling Restrictions: ONLY, STADIS <MCM 20040602 CORRECTION>; ONLY, STADIS, EXDIS
Reference: 76 STATE 194944
Review Action: RELEASED, APPROVED
Review Authority: saccheem
Review Comment: n/a
Review Content Flags:
Review Date: 11 MAY 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <11 MAY 2004 by buchant0>; APPROVED <02 SEP 2004 by saccheem>
Review Markings:

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US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CHANGED> MCM 20040602
Subject: PARTICIPATION BY THE SECRETARY IN LOS NY SESSION
TAGS: PLOS, OVIP, OCON, US, UN, (KISSINGER, HENRY A)
To: SECRETARY
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006